



Legislative
Research
Council

MINUTES

Health Insurance Issues Interim Study Committee

Third Meeting
2005 Interim
Wednesday, November 16, 2005

Room 464
State Capitol Building
Pierre, South Dakota

The third meeting of the Health Insurance Issues Interim Study Committee was called to order by Representative Don Van Etten, Chair, at 9:00 a.m. on Wednesday, November 16, 2005, in Room 464 of the State Capitol Building in Pierre, South Dakota.

A quorum was established with the following members answering the roll call: Senators Jerry Apa, Mike Broderick, Jason Gant, Tom Hansen (Vice-Chair), and Gil Koetzle; and Representatives Jamie Boomgarden, Pat Haley, Jeffrey Haverly, Gary Jerke, Deb Peters, Tim Rave, Elaine Roberts, Tim Rounds, Bill Thompson, and Don Van Etten (Chair). Senator Dan Sutton was excused.

Staff members present included Jacquelyn Storm, Principal Legislative Attorney, and Kris Schneider, Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

REPRESENTATIVE PETERS MOVED, SECONDED BY REPRESENTATIVE HAVERLY, THAT THE MINUTES OF THE SEPTEMBER 1, 2005, MEETING BE APPROVED. MOTION PREVAILED ON A VOICE VOTE.

Opening Remarks

Vice Chair Hansen commented that now may be the time to look at allowing associations to exist in South Dakota so citizens of this state have more choices for health insurance coverage, even though the state may lose some of its oversight.

Chair Van Etten stated that he had heard a presentation from America's Health Insurance Plans while attending the annual meeting of the National Conference of State Legislatures in August. He wanted the committee to hear the illustrations of joint federal and private cooperation in providing health care.

Meeting the 21st Century's Health Care Challenges

Mr. Jeff Gabardi, Senior Vice President of State Affairs, America's Health Insurance Plans (AHIP), stated that the biggest challenges for states in health care are funding Medicaid, Health Saving Accounts (HSAs), discount medical plans, broker compensation, uninsured/universal coverage, mandates, and small group rating issues. Mr. Gabardi stated that 80% of the uninsured are employed and have either been denied health insurance coverage or health insurance is not offered by their employer. In comparison to other state spending, Medicaid has outpaced education, corrections, and general fund spending. Two-thirds of the Medicaid budget is spent on long-term care. Nationally, only 60% of Medicaid recipients are in managed care plans. He praised South Dakota for using managed care for Medicaid recipients. Mr. Gabardi stated that the cost of compliance for insurance carriers is significant and streamlining the regulatory process would be helpful because many insurance companies are multi-state carriers. AHIP is working on an initiative that will have the states create a checklist of what their requirements are for new products to enable insurance carriers to get their products to market faster. The National Association of Insurance Commissioners (NAIC) is working on an interstate compact regarding long-term care and disability insurance. Once twenty-six states representing 40% of the market adopt it, it will be in effect. Currently eighteen states have adopted it. Mr. Gabardi suggested that South Dakota consider making mediation mandatory and any apologies inadmissible in court regarding malpractice insurance. Mr. Gabardi stated that South Dakota's risk pool is one of approximately thirty nationwide. AHIP would like to see South Dakota expand the risk pool to include more persons in the individual market. By doing so, it could reduce the individual market by taking the highest risk individuals and putting them in the risk pool. Another area that AHIP is looking at is HSAs. Many younger individuals elect not to have insurance because they feel they do not need the comprehensive coverage. He encouraged South Dakota to consider alternate products. Another area evolving in the health care field is using technology in the area of personal health records. The aftermath of Hurricane Katrina is an example of what happens when there's a dependence on paper records and an inability to have personal medical records readily accessible. Mr. Gabardi stated that in 2003, only 55% of the treatment people received was appropriate. We, as a nation, do not use evidence-based medicine to determine if treatment is appropriate. A copy of Mr. Gabardi's presentation was distributed to the committee (**Document 1**).

In response to a question regarding Minnesota's affidavit regarding malpractice insurance, Mr. Gabardi stated that the definition of "standard of care" is not the same for every area in the state so it is subjective.

In response to a question asking if there is a national database that could be accessed regarding malpractice claims, Mr. Gabardi stated that there are technological and legal challenges. Chair Van Etten stated that another complicating factor is that there are times that insurance carriers settle malpractice claims rather than go to trial; the physician does not make the decision.

In response to a question asking if mandates deter insurance carriers from doing business in South Dakota, Mr. Gabardi stated that if carriers are allowed more flexibility in what they may offer, more may chose to do business in South Dakota. However, even if some of the mandates are repealed, carriers may still choose to offer the coverage. Chair Van Etten and Senator Broderick noted that South Dakota is not overly mandated.

In response to a question on South Dakota's non-insured rate of 8.5%, Mr. Gabardi stated that the state is doing very well.

Public Testimony

Mr. Chad Liedtke, Nunda, an insurance agent, testified that hospital surgical plan (HSP) is marketed in South Dakota on a very limited basis. He asked that the committee consider opening up the market to allow more HSPs to be sold in the state as it allows people the right to choose how much risk they want to take. Mr. Liedtke also stated that the risk pool needs to be expanded. He distributed information regarding Health Insurance Options for People with Health Conditions (**Document 2**) and Senate Bill 109 from the 2004 Legislative Session (**Document 3**) entitled *An Act to revise certain provisions regarding the offering of supplemental health insurance*.

In response to Mr. Liedtke's testimony, **Mr. Randy Moses**, Division of Insurance, stated that the division did oppose SB 109. Current statute does not prohibit the sale of a HSP. When an HSP is offered, the carrier must also offer major medical insurance. The division is concerned with misrepresentation because the HSP pays less than the major medical coverage.

Committee Discussion/Action

Representative Peters asked Mr. Moses to comment on Mr. Chaplin's recommendations from the prior meeting regarding rates. Mr. Moses stated that the division reviews the rates because it is statutory. Currently rates for individual policies and HMOs have to have their rates approved. Only group rates do not have to have prior approval.

Senator Broderick stated that South Dakota's rules regarding associations are very restrictive. Mr. Moses stated that the division has concerns with the group being a true association because the master policy holder makes decisions on the premiums and any changes in benefits, and therefore, should have a vested interest in the insured.

Mr. Moses stated that the South Dakota Bankers Association (SDBA) was already eligible as an association but legislation passed last year would allow the SDBA to be rated by themselves and to self-fund rather than purchase insurance. The other group that has been discussed at a previous meeting is a purchasing cooperative that is banding together to purchase insurance.

Senator Apa requested that the staff provide additional information to the committee regarding association group insurance relating to SDCL 58-18-3 and ARSD 20:06:42:01.

Representative Thompson asked why premium rates in South Dakota and North Dakota were so different according to the report of the last meeting. Mr. Moses stated he would look into that.

Chair Van Etten stated that because of time constraints, the additional information will be mailed to the committee.

Adjournment

The chair adjourned the meeting at 12:29 p.m.



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